

FMCSA's ELD guidance on Ag Exemption

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Joel DeLorenzo with Federal Motor Carriers Association, FMCSA, discussed the ELD guidance for Ag Exemption and Personal Conveyance last month during a ELD sponsored webcast. During the presentation there was clarification of what constitutes an agricultural, AG, commodity, what is considered a "source", how to log under the 150/172.6 mile AG exemption and finally what the ELD AG Exemption is and who it affects.

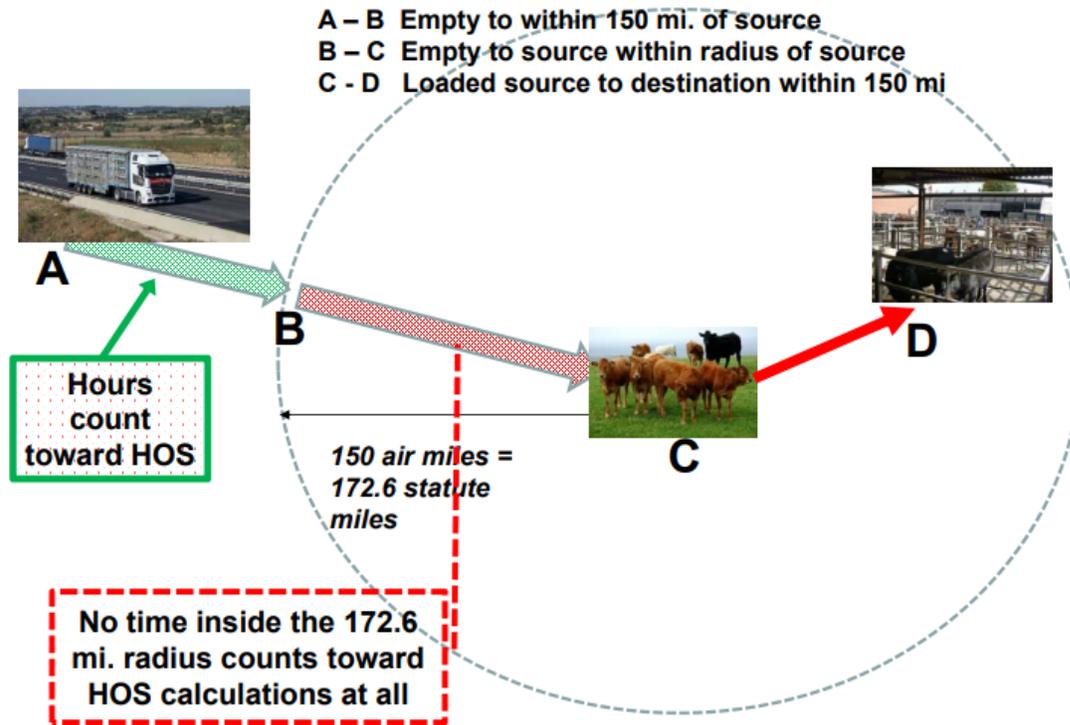
Under the current HOS AG exemption 49 CFR 395.1((k)(1)) 150 air-mile or 172.6 actual miles "Agricultural Commodity" Exemption; which is the provisions that covers CMV movement during planting and harvesting periods set by each state. It also covers moving agricultural commodity, non-processed food, feed, fiber or livestock.

During the presentation to the industry there was discussion of what is to be considered a "source" of an agricultural commodity. The definition that was provided by FMCSA is a **"Source - A source may not only be the farm or ranch where the agricultural commodity originates, but also may include intermediate storage and loading facilities, such as grain elevators or sale barns."**

During the presentation by DeLorenzo, FMCSA offered guidance to help provide definition for use of the general HOS AG Exemption. Below you can find helpful diagrams created by FMCSA to help illustrate AG routes for easier understanding.

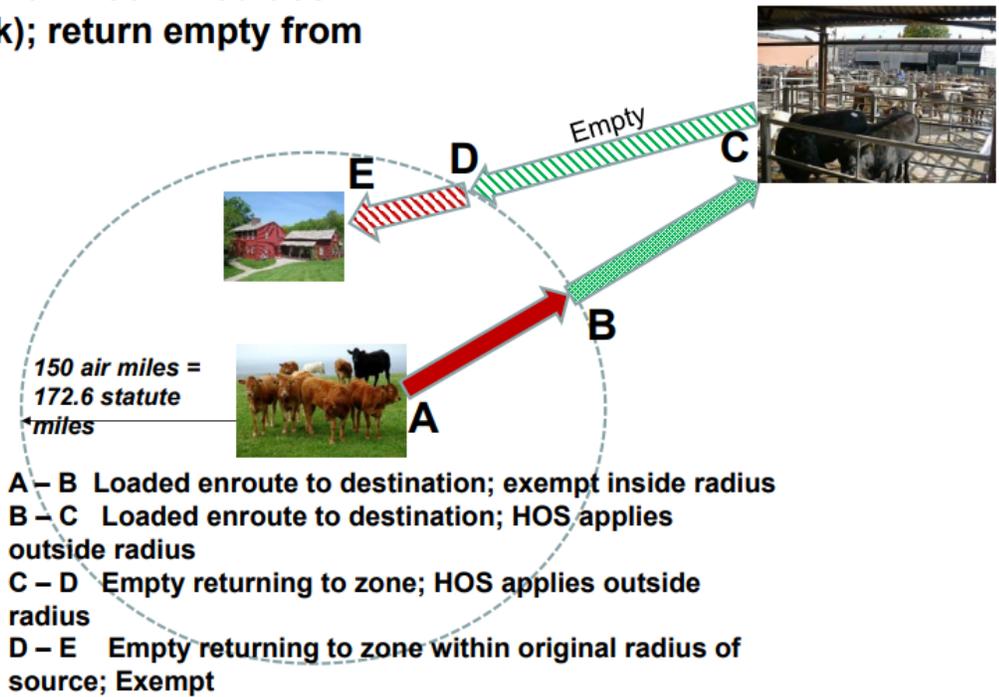
Looking at this diagram below, we can see that CMV AG drivers should log mileage outside of 150 mile/172.6 mile radius of the source. In the example below the source is the feed yard and/or pasture.

395.1(k): En route empty to source



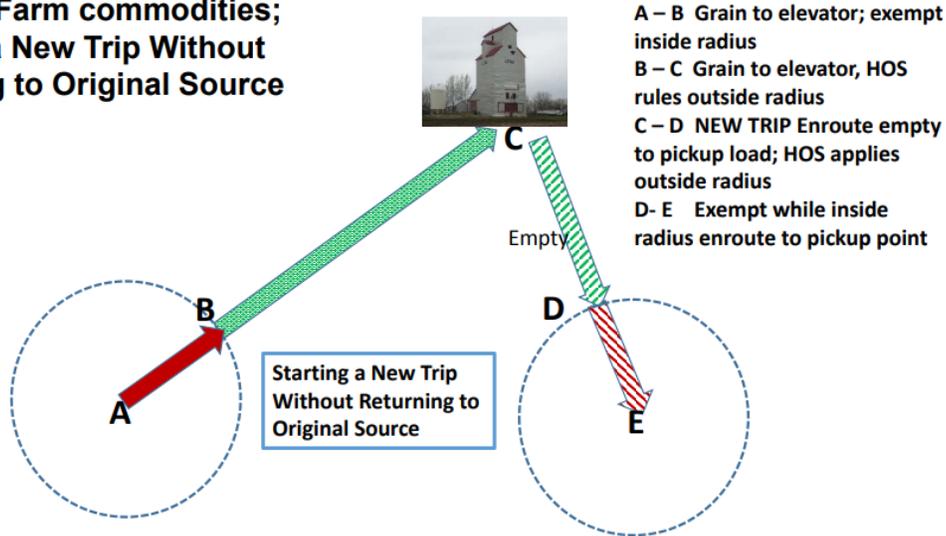
This diagram below explains how the log should appear if the delivery point is outside of the 150/172.6 mile radius. Driver should claim AG's HOS up to that 150/172.5 mile point, then logging to delivery and return to that same 150/172.6 mile radius. Then finishing out under that same AG HOS Exemption.

395.1(k): Farm commodities (livestock); return empty from delivery



The final example shows how to log farm commodities without returning to the original source. The driver would log after reaching 150/172.6 mile radius. Dropping at elevator and then continuing to log until driver reaches the next 150/172.6 mile radius point for pick up of next load.

**395.1(k): Farm commodities;
Starting a New Trip Without
Returning to Original Source**



Concerning the guidance for the extension of the AG HOS ELD Exemption is from Sec. 132 of Title 1 Division L from the "Consolidated Appropriations Act of 2018", which prohibits the enforcement of ELD mandate to those transporting **only livestock and insects** (i.e. bees.) The ELD Ag exemption applies to only what is defined as livestock in the Emergency Livestock Feed Assistance Act of 1988; Livestock: cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food and other animals designated by the Secretary. This provision was granted and extended from March 23 to September 30, 2018 unless extended by Congress. (Though there has been an extension of that exemption passed by the US Senate this month.) All other AG exemptions covered in 395.1(k) do not apply to the Ag Exemption for ELD's set forth by FMCSA.

During this presentation the following question were brought up to FMCSA.

Does the agricultural commodity exception (395.1(k)(1)) apply if the destination for the commodity is beyond the 150 air-mile radius from the source?

- **The response to this guidance: yes, the exception applies to transportation during the initial 150 air-miles from the source of the commodity...regardless of the distance to the final destination.**

Next does the agricultural commodity exception (395.(k)(1)) apply to drivers while driving unloaded within 150 air-miles of the place where an agricultural commodity will be loaded, and to that portion of an unloaded return trip which occurs within a 150 air-mile radius of the place where the agricultural commodity was loaded?

- **Yes, provided that the trip does not involve transporting other cargo and the sole purpose of the trip is to make a pick-up or delivery of agricultural commodities as defined in 395.2. In that case, driving and on-duty time are not limited, nor do other requirements of 49 CFR part 395 apply.**

Need more information regarding this exemption or the personal conveyance guidance, contact Kansas Motor Carrier Association, KMCA about becoming a member at 785-267-1641 and speak with Kay Hendrix. KMCA members receive current updated information about new regulations, state rules and industry standards plus several trucking services that can help your company become safe!